IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3302 OF 2004

Jagdish Mohanlal Joshi & Anr. .. Petitioners

Versus

State of Maharashtra .. Respondents.

Mr.A.P.Mundargi with V.M.Thorat i/b. Ms.Manisha Patil for petitioners

Mr.A.S.Gadkari, A.P.P. for State

Mr.Satish Maneshinde for complainant.

WITH

CRIMINAL APPLICATION NO.3467 OF 2004

Arun Mohanlal Joshi .. Petitioner

Versus

State of Maharashtra .. Respondent.

Mr.Shirish Gupte, Senior Counsel with Mr.Girish Godbole for petitioner

Mr.A.S.Gadkari, A.P.P. for State.

CORAM : A.M.KHANWILKAR, J.

DATE : SEPTEMBER 13, 2004.

P.C.

1. Heard learned Counsel for the parties, including Mr.Maneshinde for complainant. On perusal of the record it is seen that the applicants are named in Criminal Case registered as C.R.No.71 of 2003 with Jaisingpur Police Station. It is seen that initially the complainant filed private complaint in which enquiry was undertaken in terms of section 156(3) of Cr.P.C. The statements of the concerned accused including the applicant have been

recorded during the said enquiry. It is, however, later on the private complaint was directed to be registered as First Information Report and has been so registered with the Jaisingpur Police Station being C.R.No.71 of 2003 for the same offence. During the pendency of the private complaint, the applicants had applied for anticipatory bail before the sessions court, which applications were disposed of on 31st March 2003 by directing the concerned police station that if they intend to effect arrest of any of these applicants - accused in the said complaint, they should be given two days notice. In view of the observations made in the said order, the police inspector has now issued notice to the applicants on 13th February 2004. Pursuant to the said notice, the applicants applied before the sessions court, Kolhapur for anticipatory bail. That application has been rejected by the sessions court on 28th July 2004, whereafter, the applicants have preferred the present

applications before this Court under section 438 of Cr.P.C.

2. Having considered the rival submissions and after perusing the record, without going into the legal issues raised on behalf of the applicants about the appropriateness of the direction to register the F.I.R. on the basis of which the C.R.No.71 of 2004 has been registered with the Jaisingpur Police Station, which contention is based on the exposition in A.I.R. 1976 S.C. 1672 (Devarapalli Lakshminarayana Reddy and Ors. Vs. V.Narayana Reddy and Ors.), to my mind, the applicants are entitled to be granted anticipatory bail, inter alia, because it is seen that during the pendency of enquiry before the Magistrate, the applicants were never arrested and it is not the case of the prosecution that the applicants have attempted to tamper with the documentary evidence. The applicants are not even parties to the suit

pending before the Agra Court. The case against the applicants it cannot be disputed, is founded on documentary evidence. In the circumstances, the applicants are granted anticipatory bail on certain conditions. Accordingly these applications succeed on the following terms:-

a) Applicants are granted anticipatory bail in connection with the C.R.No.71 of 2003 registered with Jaisingpur Police station on execution of P.R.Bond in the sum of Rs.50,000/- and two sureties each in the like amount;

b) The applicants shall report to Jaisingpur Police station from 15th September 2004, initially for a period of one week between 11.00 a.m. to 5.00 p.m. and thereafter once in fortnight on Saturday between 11.00 a.m. and 5.00 p.m. or on any other day or time or

place as may be required by the I.O.

C) The applicants shall surrender their passports with the I.O.

D) The applicants shall cooperate during the investigation as also at the trial and if the concerned court is satisfied that the applicants are not cooperating either with the investigation or during the trial, that can be a ground for cancellation of bail.

E) Applicants shall be entitled to apply to the concerned court for release of passports for undertaking business trips as and when required. The concerned court shall issue appropriate directions soas to ensure that the applicants will make themselves available to the court as and when required.

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